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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/791,262

03/02/2004

James W. Kenney

DSC-PT001

2797

37533 7590 02/27/2007  
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EXAMINER

KOCZO JR, MICHAEL

ART UNIT

PAPER NUMBER

3746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/791,262

Applicant(s)

KENNEY, JAMES W.

Examiner

Michael Koczko, Jr.

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) 41-44, 46 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-33 and 47-68 is/are allowed.
- 6) ☒ Claim(s) 34, 38, 39 and 45 is/are rejected.
- 7) ☒ Claim(s) 35-37 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

Applicant's arguments with respect to claims 34, 38, 39 and 45 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

Claims 34, 38, 39 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bramstedt et al (US 4,842,498) in view of Fritsch US 4,430,048). Bramstedt et al disclose a diaphragm pump having a housing which consists of four components 22, 40, 49 and 50 which form an interior chamber 56, pressure and vacuum ports 51 and 52 having lengthwise-extending axes that are perpendicular to the first axis, and interior fluid communication channels.

However, Bramstedt et al do not disclose a housing which “consists” of first and second housing components. Fritsch discloses a diaphragm pump having a housing which consists of first and second housing components 1 and 2 and which form an interior chamber 8, pressure and vacuum ports having lengthwise-extending axes that are perpendicular to the first axis, and interior fluid communication channels 13 and 14. Forming the housing of only two components simplifies the structure and the assembly thereof as compared to the structure of Bramstedt et al. In view of this teaching, it would have been obvious to form elements 40, 49 and 50 of Bramstedt et al as a unitary homogenous structure so that the housing consists of two components. Fasteners 55 of Bramstedt et al are readable as locking means which permit the pump to be assembly by hand. Regarding claim 39, the holes for fasteners 55 of Bramstedt et al are readable as “connection interfaces” that overlap.

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***Allowable Subject Matter***

Claims 1 to 33 and 47 to 68 are allowed.

Claims 35 to 37 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Claims 41 to 44 and 46 stand withdrawn from further consideration as being drawn to a non-elected invention.

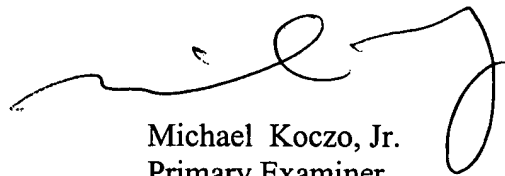
Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Koczo, Jr. whose telephone number is 571-272-4830. The examiner can normally be reached on M-Th; 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached at 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Michael Koczo, Jr.', with a large, stylized loop at the end.

Michael Koczo, Jr.  
Primary Examiner  
Art Unit 3746